

POLICE/SHERIFF'S DEPARTMENT		RULES AND REGULATIONS	
SUBJECT: Off-Duty Employment		NUMBER: 1-11	
EFFECTIVE DATE: July 1, 2001		REVIEW DATE:	
AMENDS/SUPERSEDES: RR 1-11, July 1, 1999		APPROVED: _____ Chief of Police/Sheriff	
CALEA STANDARDS: 1.2.1, 22.3.3, 22.3.4		VLEPSC STANDARDS: PER.04.01, 04.02	

NOTE

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

INDEX WORDS

Liability
Off-duty arrests
Off-duty employment
Secondary employment

I. POLICY

The chief of police/sheriff must ensure the continued efficiency and effectiveness of the department while simultaneously reducing or eliminating conflicts of interest. To this end, the chief of police/sheriff shall manage according to whatever reasonable controls he deems necessary to restrict or regulate the conduct of employees. It is the policy of the department, therefore, to prohibit off-duty employment when it may impair efficiency or conflict with employees' duties and responsibilities. To promote the welfare and good reputation of the department, however, this order outlines procedures to ensure appropriate, accountable, and reasonable off-duty work. *Virginia Code 15.2-1712* applies.

II. PURPOSE

To define regulations governing off-duty employment and conduct while employed in an off-duty capacity.

III. DEFINITIONS

A. Employment

Any work performed or services provided for compensation (a fee or otherwise), including self-employment. Volunteer charity work is excluded.

B. Law enforcement-related employment

Off-duty employment which may entail the use of law-enforcement powers granted by the Commonwealth of Virginia or the *[your jurisdiction]*. *[Note: Virginia Code § 15.2-1712 allows local units of government to adopt regulations or ordinances governing off-duty employment. Until recently, § 9-183.3 required law-enforcement officers to be licensed before performing private security duties. In the 2001 session of the Virginia General Assembly, § 9-183.2 was amended to exempt law-enforcement officers from licensing requirements who receive compensation under the terms of a contract, express or implied, as security officers.] [This note to the sample order revised 7-1-2001.]*

C. Probationary year

The period of time measured by one calendar year beginning with the date of graduation from a basic academy.

D. Secondary employment

Any non-law enforcement-related off-duty work for pay. Secondary employment does not require sworn enforcement powers as a condition of employment and the work does not provide implied law-enforcement service.

IV. PROCEDURES

A. General

No employee shall work off duty during a probationary year. Employees on medical or sick leave, temporary disability, or light duty due to injury are ineligible for off-duty employment. An employee engaged in **any** off-duty employment may be called to duty in an emergency.

B. Secondary employment

Employment shall not constitute a conflict of interest. A conflict of interest, as determined by the chief of police/sheriff, is any activity inconsistent, incompatible, or in conflict with the duties, functions, or responsibilities of employment.

C. Law enforcement-related off-duty employment

1. Law enforcement-related employment shall not exceed 14 hours per day, including on-duty time: e.g., a deputy working a 10-hour tour may work four hours of off-duty employment on the same day and an officer on a day off may work 14 hours. For the purpose of computing allowable work time, court appearances constitute on-duty time as does sick leave.
2. Law enforcement-related employment is restricted to the town/county boundaries. Officers may perform law-enforcement duties beyond town/county boundaries if working in conjunction with another jurisdiction's regular law-enforcement agency **and** after having been duly sworn as a law-enforcement officer in that jurisdiction.
3. The minimum salary required for officers employed in a law enforcement-related capacity must be at least equal to the rate for a starting officer.
4. Serving as a recruiter and receiving compensation for procurement of law enforcement-related jobs for other department employees is prohibited.
5. No employee shall solicit any person or business for the purpose of gaining law enforcement-related off-duty employment, and, while on duty, shall not solicit any person or business for the purpose of gaining secondary employment.
6. Except for public school security activities and other employment specifically authorized by the chief of police/sheriff, the following regulations apply:
 - a. The department uniform shall not be worn while engaged in off-duty employment.
 - b. Town-/county-owned vehicles, radios, or other equipment shall not be used while traveling to and from or engaging in off-duty employment, unless specifically authorized by the chief of police/sheriff.
7. Officers, while engaged in law enforcement-related employment, shall be subject to the orders of the on-duty law-enforcement supervisor.

D. Administration

1. Employees must submit a written request to the chief of police/sheriff through the chain of command for any off-duty employment. The form found at the end of this order shall be used for the purpose. Employees shall not begin any off-duty work until approval has been granted. The request shall be filed in the employee's personnel file.

- a. The approved request is subject to periodic review by the chief of police/sheriff. Officers shall communicate any changes in information contained on the form to the chief of police/sheriff as soon as possible.
 - b. The chief of police/sheriff may revoke permission to work off duty if the officer fails to perform adequately on duty or receives disciplinary action. To be eligible for permission to work off duty, officers must be in good standing with the department. Continued permission to work off duty is contingent upon remaining in good standing.
2. The chief of police/sheriff shall disapprove any employment that demeans the status or dignity of the law-enforcement profession, or otherwise represents a conflict of interest. Examples of such employment include:
- a. Retailers which sell pornographic materials, or provide services of a sexual nature.
 - b. Retailers who sell, manufacture, or transport alcoholic beverages as the principal business.
 - c. Gambling establishments not exempted by law.
 - d. Any firm connected with the towing or storage of vehicles, bill collecting, bodyguards, repossessioners, private investigators, process servers, or taxi cab drivers.
 - e. Performance in department uniform of any tasks other than those of law enforcement.
 - f. Performance of any work for a business or labor group that is on strike.
 - g. Performance of any work regulated or licensed through the department.
 - h. Performance of personnel investigations for private firms, or any employment requiring the officer to have access to police files, records, or information as a condition of employment.
 - i. Performance of **any** activity which supports case preparation for the defense in any criminal or civil action.
3. Arrests made while engaged in off-duty law enforcement-related employment shall be limited to felonies or criminal misdemeanors committed

in the officer's presence or a breach of the peace jeopardizing public safety. See GO 2-4 for further details concerning off-duty arrests.

- a. Employees shall understand that department liability protection does not extend to willful acts which cause injury or damage, or acts the officer knew or reasonably should have known conflicted with department policy or the law.
- b. Off-duty arrests shall **not** be made when the officer is personally involved in the incident underlying the arrest.
- c. Off-duty arrests shall **not** be made when the officer's actions only further the interests of the private employer.

E. Liability, indemnification, insurance

- 1. All employees who wish permission to engage in law enforcement-related employment shall complete the application found at the end of this order. The chief of police/sheriff must grant permission before the employee may work off duty. In addition to the application form, the employee must submit to the chief of police/sheriff a copy of the contract with the off-duty employer. The contract must specify:
 - a. The precise nature of the work to be performed.
 - b. Hours or schedule of the work performed.
 - c. What equipment the employee must maintain.
 - d. Insurance coverage of the business providing for medical treatment for job-related injuries and indemnification for litigation arising from off-duty employment.
- 2. The department shall not be responsible for medical expenses incurred from injuries sustained while working in **any** off-duty employment.
- 3. The department recognizes that an officer in law enforcement-related employment may undertake an action connected with the employment that the courts may construe as a law-enforcement duty, and therefore an extension of the job. Officers are reminded that their off-duty performance must follow the same standards required for on-duty performance. Off-duty law-enforcement actions, whether for a private employer or not, must meet the requirements of this manual.

APPLICATION FOR OFF-DUTY EMPLOYMENT

Name of employee requesting off-duty employment: _____

Effective date of off-duty employment _____
Expiration of employment (indicate whether open-ended) _____

Name of business or off-duty employer _____

Address of business _____

Telephone _____ Contact person at business _____

Type/Nature of business _____

Address and telephone number of employment sites if different from above:

1. _____
2. _____
3. _____

Description of duties _____

Number of hours worked by employee _____

Day: _____ Week: _____

Employee Signature: _____
Date of application: _____

Contract or memorandum of understanding Y _____ N _____

Approved: _____ Disapproved: _____

Chief of police/sheriff Date